

**Background:**

Title IV, Chapter 531, Section 531.0235 of the Texas Government Code requires TCDD, jointly with the Office of Prevention, to prepare a biennial report on the state of services to persons with disabilities in Texas. This report is to be provided to the Governor, Lieutenant Governor, Speaker of the House of Representatives, and the Executive Commissioner of Health and Human Services no later than December 1<sup>st</sup> of even-numbered years, prior to the beginning of each regular session of the Texas Legislature. The next report is therefore due by December 1, 2010.

Five reports have been submitted by TCDD and TOP to date. TCDD has tailored recommendations in each report to focus on an area that significantly impacts persons with disabilities. Key focus areas of previous Biennial Disability Reports were:

- ✓ Overview of Current Services, Supports, and Needs (2000)
- ✓ Special Focus on Personal Assistance Services (2002)
- ✓ Special Focus on Housing (2004)
- ✓ Employment (2006)
- ✓ The state’s allocation of resources to provide long term services and supports for people with developmental disabilities (2008)

The Council approved a special focus for the 2010 Biennial Report on: *Representative profiles of the needs and situations of people with disabilities, and their families, who are waiting for services in Texas.*

The Council reviewed preliminary recommendations during the August 2010 meetings. Staff have condensed those recommendations and will provide members with a revised draft prior to the November meetings. The previous draft recommendations were in the Binder for the August meetings behind Tab 14, or can be reviewed online at:

[http://www.txddc.state.tx.us/about\\_us/council/meetings/aug10mtgs/whole08-10.asp](http://www.txddc.state.tx.us/about_us/council/meetings/aug10mtgs/whole08-10.asp) behind Tab 14.

TCDD staff will review the proposed recommendations for the 2010 Biennial Report with the Committee of the Whole. The Public Policy Committee will also receive an update regarding the status of Biennial Report activities and provide additional guidance as appropriate. Additional information is included in the meeting materials.

<p><b><u>Committee of the Whole</u></b></p> <p><b><u>Agenda Item 9.</u></b></p>	<p><b><u>Expected Action:</u></b></p> <p>The Committee of the Whole will recommend TCDD 2010 Biennial Report Recommendations for Council approval.</p>
<p><b><u>Public Policy Committee</u></b></p> <p><b><u>Agenda Item 5.</u></b></p>	<p><b><u>Expected Action:</u></b></p> <p>The Committee will receive an update regarding recent Biennial Report activities and provide guidance as needed. No action is anticipated.</p>
<p><b><u>Council</u></b></p> <p><b><u>Agenda Item 16.</u></b></p>	<p><b><u>Expected Action:</u></b></p> <p>The Council will consider the 2010 Biennial Report Recommendations as recommended by the Committee of the Whole and determine final action.</p>

# 2010 BIENNIAL DISABILITY REPORT RECOMMENDATIONS

## Background

In 2008, the Texas Council for Developmental Disabilities contracted with Human Services Research Institute (HSRI) to conduct a *Gaps Analysis* of the Texas service system for people with developmental disabilities. This research provided the foundation for recommendations made by TCDD in its 2008 Biennial Disability Report (available online at: [http://www.txddc.state.tx.us/resources/publications/biennial\\_report/biennialindex.asp](http://www.txddc.state.tx.us/resources/publications/biennial_report/biennialindex.asp)). This external analysis evaluated Texas' performance with three performance benchmarks and found that:

- People with developmental disabilities in Texas do not have access to services with reasonable promptness;
- Many people with developmental disabilities do not receive services within the least restrictive setting appropriate to their needs; and
- The state's service system for people with developmental disabilities is not operated in a manner that promotes efficiency and economy.

In 2008, TCDD concluded that the Legislature had four policy options to consider in response to this policy dilemma:

1. Do nothing and keep the current investment patterns and service array in place, which will continue the inefficient use of resources, the community service system will not easily meet local service needs and the interest lists for waiver services will continue to grow.
2. Increase funding significantly, but maintain the current system of organizing and delivering services. This approach may help marginally, but would perpetuate present inefficiencies, even if most of the new money were to be directed at community systems. Additionally, fewer people will be served than might otherwise be served in a more efficient system.
3. Keep funding relatively level, but de-emphasize the use of Intermediate Care Facility (ICF/MR) services in favor of Home and Community-Based Services (HCBS). Under this approach, there may be a marginal impact on unmet service demand, but the state may achieve greater cost efficiencies.
4. Increase funding significantly and de-emphasize the use of ICF/MR services in favor of HCBS. This is the most forward-looking option that would provide a pathway toward increased efficiency while providing needed funds to strengthen the community system and address unmet service demand.

The 81<sup>st</sup> Texas Legislature increased funding for community services, but maintained the current system of delivering services. As a result, the gaps in the Texas service system that were previously identified in 2008 still remain. It is important to note that the 81<sup>st</sup> Legislature did, however, make significant improvements to the developmental disabilities services system in Texas and the proposed 2010 Biennial Report Recommendations take that into account.

## DRAFT RECOMMENDATIONS

### Strengthening Existing Community Services

1. Enroll an average of 4,604 additional individuals each year in HCBS waivers for individuals with ID/DD, increasing the 2006 capacity of 13,999 to approximately 64,085 individuals by 2018 in order to meet the service demand in our state.
2. Provide sufficient funds to ensure that the Community Safety Net of community support services has the capacity to meet the needs of all individuals with intellectual and development disabilities (ID/DD) in the community. Including:
  - a. Build capacity and fund the community mental health and substance abuse supports network to deter unnecessary placements in hospitals, criminal justice systems, and nursing facilities.
  - b. Build capacity and fund the community infrastructure to support individuals with significant behavioral and/or medical needs in order to reduce reliance on institutional settings for specialized services and support.
3. Ensure that individuals are able to receive adequate amounts of needed services, based on their functional needs.
  - a. Amend the eligibility requirements and service array of Medicaid waiver programs to serve individuals who have cognitive/emotional-behavioral/psychosocial disabilities with or without accompanying physical disabilities.
  - b. Update the assessment of needs by replacing the Inventory for Client and Agency Planning (ICAP) tool with more current protocols such as the Supports Intensity Scale (SIS).
4. Expand home-based services as the primary tool for addressing service demand, including expanding the Texas Home Living (TxHmL) HCBS “supports” waiver to include a broader array of services and a more robust level of services.
5. Expand efforts to provide community respite alternatives.
6. Make necessary program changes to allow participants increased control over their individual service budget. Expand options for Self-Directed Services (CDS, SRO) in Medicaid and non-Medicaid programs (including waivers) that provide long-term services and supports including fee-for-service and managed care programs (STAR+Plus). Extend self-directed options to additional services beyond personal assistant services and respite services.
7. Develop specialized services and supports to allow individuals with developmental disabilities to age in place following the loss of a family caregiver.
8. Address insufficiencies in provider reimbursements that impact the availability and quality of community support services. Specifically:
  - a. Increase rates and expand rate enhancements for community service providers to ensure that providers can recruit, train, and retain quality direct care staff and compete with other employers in the workplace.
  - b. Create a hierarchical structure of reimbursement rates that recognizes case mix, complexity of care, family supports, and individual needs.
  - c. Adjust reimbursement mechanisms to provide incentives for providers to expand community supports and to implement innovative approaches in service delivery to improve quality and cost effectiveness.
  - d. Use existing cost data as a basis for increases in payment rates for community agencies to catch up with underlying changes in the cost of doing business in Texas.
  - e. Implement low-cost or no-cost workplace improvements to increase retention of direct care workers.
  - f. Initiate a comprehensive study of community wages and benefits in 2011 and target for completion during 2012.
9. Explore quality-improvement strategies such as using self-advocates to provide peer support to consumers to increase safety, prevent abuse and neglect, and improve awareness of community living options.

10. Expand services and community living options for youth with disabilities transitioning from education settings to post-education activities.

### **Serving People in the Most Integrated Setting**

11. Reduce the number of people served at state supported living centers. During the 2010-2018 period, the SSLC population should be reduced to not more than 1,465 individuals for Texas to simply meet the projected nationwide averages.
12. Cease admissions of children to state supported living centers. Continue and expand efforts to accommodate all children under the age of 22 who are in state supported living centers and seek community placement utilizing mechanisms such as in-home support services for children living at home with families and “Money Follows the Person” to provide opportunities for children to leave institutional settings in favor of HCBS alternatives.
13. Further develop the “Money Follows the Person” initiatives to accommodate a stronger transition of people living in ICFs/MR who prefer to receive services in the most integrated setting.
14. Modify the Community Living Options Information Process (CLOIP) to ensure that residents of state supported living centers who express interest in community living arrangements receive appropriate education about, and are able to access community options. Specifically:
  - a. Improve the required documentation of mandated discussions with residents regarding their options for community supports and services, and include documentation concerning supports and services needed to successfully transition to a community setting, efforts to secure those services, and documentation of the reasons for not providing community living arrangements when requested.
  - b. Revise procedures to require local Mental Retardation Authorities to provide choice options to residents in community ICFs/MR and fully reimburse local authority costs to for those activities.
  - c. Expand “transition assistance services” for participants in all HCBS waivers, including the HCS waiver program.
15. Expand and promote opportunities for ICFs/MR providers to transition to supporting individuals in the most integrated setting.

### **Projection of Future Long Term Care Needs**

16. Build expertise among service providers to assist individuals with developmental disabilities who are aging and their family caregivers in actively planning for their future long-term care needs.
17. Direct HHSC and its Departments (DADS, DARS, DFPS, DSHS) to develop the infrastructure to collect and share common information about individuals receiving services across access and intake systems at the state and local level.
18. Periodically review and use data on the types of services selected by individuals with disabilities when they are offered Medicaid waiver supports to more efficiently fund future long-term supports based on consumer needs.

### **10-Year Plan for Rebalancing the Long-Term Services and Supports System**

19. Develop and implement a comprehensive plan Continue and formalize the redesign of LTSS for people with ID/DD with executive and legislative branch sponsorship to reduce the institutional bias in long-term services and support systems by 2018 and redirect funds to community services infrastructure.
20. Pursue redesign through a collaborative process that engages people with intellectual and developmental disabilities and other appropriate stakeholders as primary constituents of the system.